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10 **UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

11 HAKKASAN LV, LLC, a Nevada  
12 limited liability company,  
13 HAKKASAN LIMITED, a foreign  
private limited company,

14 Plaintiffs,

15 v.

16 VIP, UNLTD, LLC, a Nevada limited  
liability company, ANDREW  
17 ROCKWELL, an individual,

18 Defendants.

19 Case No.: 2:13-cv-01999-JCM-NJK

20

21 **AMENDED INJUNCTION ORDER**

22 **PRELIMINARY**

23 Pending before the court is plaintiffs' motion for preliminary injunction. Plaintiffs allege six  
24 causes of action, injunctive relief and damages. The causes of action are: (1) trademark  
infringement and counterfeiting under 15 U.S.C. § 1114; (2) unfair competition under 15 U.S.C. §  
25 1125(a); (3) common law trademark infringement; (4) deceptive trade practices under N.R.S.  
798.0903, et seq.; (5) fraud and (6) intentional interference with prospective economic advantage.

26 A hearing on the motion for preliminary injunction was conducted on November 15, 2013 at  
27 10:00 a.m. The defendants were given notice of the hearing through electronic mail as authorized by  
28 the court. Defendants have failed to respond to the motion for preliminary injunction.

1       Upon consideration of the motion filed by plaintiffs HAKKASAN LV, LLC, and  
 2 HAKKASAN LIMITED, (“plaintiffs”), requesting a preliminary injunction requiring defendants  
 3 Andrew Rockwell and VIP UNLTD, LLV (“defendants”) to immediately cease and desist all use of  
 4 the <www.hakkasannightclubvegas.com> domain name (the “infringing domain name”) and  
 5 plaintiffs’ mark and requiring the domain name registrar to lock the domain names at issue, the  
 6 supporting memorandum of points and authorities, the supporting declarations and evidence, the  
 7 record in this case, and for other good cause shown:

8           THE COURT FINDS AND CONCLUDES THAT:

9           1. This court has subject matter jurisdiction pursuant to 15 U.S.C. § 1121 and 28 U.S.C.  
 10 §§ 1331 and 1338.

11           2. The court has personal jurisdiction over the defendants in that defendants committed  
 12 possibly tortious acts that they knew or should have known would cause injury to plaintiffs in the  
 13 State of Nevada.

14           3. Plaintiffs have made extensive use of the HAKKASAN marks in relation to  
 15 nightclubs, nightclub services in the nature of reservation and booking services for the purpose of  
 16 arranging for admission to nightclubs and related services.

17           4. Defendants have registered the infringing domain names incorporating plaintiffs’  
 18 business names;

19           5. Defendants have used plaintiffs’ marks as part of the internet domain name  
 20 <www.hakkasanightclubvegas.com> without plaintiffs’ authority or permission.

21           6. A preliminary injunction may be issued if plaintiffs establish: (1) the plaintiffs will  
 22 probably prevail on the merits; (2) plaintiffs will likely suffer irreparable injury if relief is denied; (3)  
 23 the balance of equities tips in plaintiffs’ favor; and (4) an injunction is in the public interest. *Winter*  
 24 v. *Natural Res. Defense Council, Inc.*, 555 U.S. 7, 20 (2008). Alternatively, an injunction may issue  
 25 under the “sliding scale” approach if there are serious questions going to the merits and the balance  
 26 of hardships tips sharply in plaintiff’s favor, so long as plaintiffs still show a likelihood of  
 27 irreparable injury and that an injunction is in the public interest. *Alliance for the Wild Rockies v.*  
 28 *Cottrell*, 632 F.3d 1127, 1134-35 (9<sup>th</sup> Cir. 2011)

1       7.     “An injunction is a matter of equitable discretion and is an extraordinary remedy that  
 2 may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Earth Island*  
 3 *Inst. V. Carlton*, 626 F.3d 462, 469 (9<sup>th</sup> Cir. 2010) (internal quotation marks omitted).

4       8.     A person shall be liable in a civil action by the owner of a mark if that person has a  
 5 bad faith intent to profit from that mark, and registers, traffics in, or uses a domain name that is: (1)  
 6 identical or confusingly similar to a mark that is distinctive at the time of the domain registration; or  
 7 (2) identical or confusingly similar to or dilutive of a mark that is famous at the time of the use of the  
 8 domain registration. 16 U.S.C. § 1126(d).

9       9.     After consideration of the motion and plaintiffs’ complaint, and accompanying  
 10 exhibits, the court finds and concludes plaintiffs are likely to succeed on the merits of their claims  
 11 under the Lanham Act that the <www.hakkasanightclubvegas.com> domain name demonstrates a  
 12 bad faith intent to profit from the HAKKASAN marks and that the <www.  
 13 hakkasanightclubvegas.com> domain name is confusingly similar to the plaintiffs’ mark, which  
 14 was distinctive or famous at the time of the domain registrations.

15      10.   Plaintiffs have demonstrated a likelihood of success on the merits of their  
 16 cybersquatting claims against defendant under the Lanham Act, 15 U.S.C. § 1125(d).

17      11.   Plaintiffs have also demonstrated a likelihood of success on the merits of their trademark infringement claims against defendant under the Lanham Act, 15 U.S.C. § 1114.

19      12.   Plaintiffs have also demonstrated a likelihood of success on the merits of their unfair competition claims against defendant under the Lanham Act, 15 U.S.C. § 1125(a).

21      13.   Plaintiffs will suffer irreparable injury if the court does not require the domain name registrar godaddy.com (the “registrar”) to lock the <www.hakkasanightclubvegas.com> infringing domain name pending litigation of this matter.

24      14.   Plaintiffs have demonstrated that they will suffer irreparable harm if a preliminary injunction is not entered because defendant could transfer the infringing domain name to another registrant or registrar. Transfer of the infringing domain name to another registrant would deprive the court of jurisdiction and require plaintiffs to file additional suits to recover its intellectual

1 property. Transfer of the infringing domain name to another registrar would require plaintiffs to  
2 expend significant effort and financial resources to track the registration.

3 15. The balance of hardships tips in favor of plaintiffs because issuance of the injunction  
4 would merely lock the domain names pending trial, and failure to issue the injunction would cause  
5 plaintiffs to suffer irreparable injury to their name and marks and the associated goodwill if  
6 defendant is not enjoined from registering, maintaining the registration on or using domain names  
7 containing plaintiffs' marks or marks confusingly similar thereto.

8 16. There is no likelihood of harm to the public from the preliminary injunction now  
9 being granted.

10 IT IS THEREFORE ORDER, ADJUDGED AND DECREED that: the application for  
11 preliminary injunction is hereby GRANTED:

12 IT IS FURTHER ORDERED that, pursuant to 15 U.S.C. § 1125(d)(1)(C), the domain name  
13 <www.hakkasannightclubvegas.com> shall be immediately locked and/or remain locked by the  
14 registrar and/or its successor registrars pending the resolution of this action;

15 IT IS FURTHER ORDERED that defendants, their respective officers, agents, servants,  
16 employees and/or all persons acting in concert or participation with them, or any of them, are  
17 prohibited from (1) using plaintiffs' trademarks or confusingly similar variations thereof, alone or in  
18 combination with any other letters, words, letter strings, phrases, or designs, in commerce or in  
19 connection with any business or for any other purpose (including, but not limited to, on websites and  
20 in domain names); and (2) registering, owning, leasing, selling or trafficking in any domain names  
21 containing plaintiffs' trademarks or confusingly similar variations thereof, alone or in combination  
22 with any other letters, words, letter strings, phrases, or designs; and that defendant is prohibited from  
23 transferring the domain name <www.hakkasannightclublasvegas.com> during the pendency of this  
24 action or until further order of the court.

25 IT IS FURTHER ORDERED that the registrar and/or its successor registrar remove all  
26 exhibiting domain name servers (DNS) entries and corresponding addresses, and enter the registrar's  
27 default DNS and address entries to prevent further damage caused by the infringing use of the  
28 infringing domain name.

1 IT IS FURTHER ORDERED that defendants shall file, pursuant to 15 U.S.C. § 1116(a), with  
2 this court and serve upon plaintiffs within thirty (30) days after entry of this order, a report in writing  
3 under oath setting forth in detail the manner and form in which defendants have complied with this  
4 court's order; and

5 IT IS FURTHER ORDERED that the bond posted with this court in the amount of one  
6 hundred and no/100 dollars (\$100.00) shall be applied to this preliminary injunction.

7 The Court permits service of the preliminary injunction by electronic mail in addition to  
8 effectuating service as required by Fed.R.Civ. P. 4 & 5.

9  
10   
11 UNITED STATES DISTRICT JUDGE

12 Date/Time: November 18, 2013 at 2:00 p.m.  
13

14 Respectfully submitted by:  
15

16 GREENBERG TRAURIG, LLP  
17

18 /s/ Laraine M.I. Burrell  
19

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